

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 19882 of 1994

Between:

The Managing Director Visakhapatnam Co-operative Central Stores Limited (Sugar
Bazar) Visakhapatnam.

..... PETITIONER

AND

1.The Deputy Commissioner of Labour (2nd Appellate Authority . . under the
A.P.Shops and Establishme Act, 1988)

Visakhapatnam Region Visakhapatnam.

2 The Assistant Commissioner of Labour
Visakhapatnam.

3 Sri.Manapuram Nagabhushana Rao S/o.Satyanarayana
C/o.Devudu D.No.37-24-23
Tummalapalem Visakhapatnam.

4 The V.Metropolitan Magistrate-cum-Special Judge for cases . . under Labour
and Factories Acts
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court will be pleased to
issue a writ, in the nature of Writ of Mandamus or any other appropriate writ,
direction or order directing the 1st respondent to accept from the petitioner the pay
order for Rs.37,000 towards the deposit of the entire amount of back wages as
orderd in FAMP.No.1/1992 on the file of the Asst Commissioner of
Labour,Visakhapatnam, the 2nd respondent herein and entertain the Second
Appeal filed against the order dated 31-12-1992 in FAMP.No.1/1992 on the file of
the Asst Commissioner of Labour, Visakhapatnam and Stay all further proceedings
in CPMP.No.756/1994 on the file of the V Metropolitan Magistrate-cum-Special

Judge for cases under Labour and Factories Act, Visakhapatnam,

Counsel for the Petitioner:DR.P.B.VIJAY KUMAR

Counsel for the Respondent No.: M/S.A.S.RAMASARMA

The Court made the following :

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ORDER:

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1. This Writ Petition is filed seeking appropriate direction to the 1st respondent to accept from the petitioner the Pay Order for Rs.37,000/- towards the deposit of the entire amount of back wages as ordered in FAMP.No. 1/1992 on the file of the Assistant Commissioner of Labour, Visakhapatnam and entertain the Second Appeal and stay all further proceedings in CPMP No. 756/1994.

2. The 3rd respondent filed application before the Assistant Commissioner of Labour under A.P. Shops and Establishments Act, Visakhapatnam challenging his termination order.The said authority, passed an order directing reinstatement with full back wages. As against the said order, it appears, no appeal has been preferred. But, the grievance of the petitioner is that even though the back wages were to be deposited the 1st respondent is not accepting the amount, nor entertaining the second appeal. Therefore, the present Writ Petition is filed.

3. I am afraid that the very writ petition is misconceived. If the petitioner is aggrieved by the order of the 2nd respondent, it is open for him to file appeal before the 1st respondent and seek appropriate orders. Only, in order to evade the recovery proceedings such course has been adopted by the petitioner, which cannot be appreciated.

4. I do not find any merits in the writ Petition and is accordingly dismissed. No order as to costs.

G. Bikshapathy, J.

29th July, 2004.

KM

ASSISSTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Deputy Commissioner of Labour (2nd Appellate Authority . . under the A.P.Shops and Establishme Act, 1988)

Visakhapatnam Region Visakhapatnam.

2 The Assistant Commissioner of Labour
Visakhapatnam.

3 The V.Metropolitan Magistrate-cum-Special Judge for cases . . under Labour
and Factories Acts
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THE HON'BLE SRI JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 19882 of 1994

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29TH JULY, 2004